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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

COMMONWEALTH et al. v. TREDEGAR CO.

March 21, 1918.

[95 S. E. 279.]

Taxation (§ 608 (10)*)—Collection—Injunction—Statute.—It being, under Code 1904, § 508, the duty of the commissioner of revenue to assess for taxation any property which he finds was not so assessed for a previous year, within the limits there prescribed, and there being an adequate remedy by motion under section 567, if he makes an erroneous or illegal and invalid assessment, Acts 1916, c. 64, providing that no suit to restrain the collection or assessment of a tax shall be maintainable, except when the party has no adequate remedy at law, bars suit by the property owner to correct and cancel such assessment made by such officer, to exonerate complainant from the tax, and to perpetually enjoin its collection.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 572; 13 Va. Enc. Dig. 123.]

Appeal from Circuit Court of City of Richmond.

Suit for injunction by the Tredegar Company against the Commonwealth and others. From an adverse decree, defendants appeal. Reversed and dismissed.

The Attorney General and *H. R. Pollard*, of Richmond, for appellants.

W. R. Meredith, of Richmond, for appellee.

MAIN STREET BANK, Inc., v. CITY OF RICHMOND et al.

March 21, 1918.

[95 S. E. 386.]

Taxation (§ 461*)—Bank Stockholders—Excessive Assessment—Correction on Motion of Bank—Statute.—Under Code 1904, §§ 567, 571, providing that any person assessed with state or local taxes, who is aggrieved by any such assessment, may proceed by motion for its correction, where a report made by the officers of a bank stated excessively the gross value of the property of stockholders liable for

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

taxation, the excess arising from the bank carrying realty at an excessive valuation, etc., the erroneous assessment could not be corrected on motion of the bank, in view of sections 17-22 of revenue law (Code 1904, Appendix), providing that no tax shall be assessed on the capital stock of a bank, but that the bank shall annually return a report of its stockholders, with the value of the shares held by each, etc., which sections did not levy a tax on the bank, but merely constituted it the stockholders' agent.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 106.]

Error to Hustings Court of Richmond.

Motion by the Main Street Bank, Incorporated, for relief against an erroneous assessment. To review an order dismissing the motion, the Bank brings error. Affirmed.

O'Flaherty, Fulton & Byrd, of Richmond, for plaintiff in error.

The Attorney General and *H. R. Pollard*, of Richmond, for defendants in error.

STEWART et al. v. STEWART et al.

March 21, 1918.

[95 S. E. 388.]

1. Partition (§ 12 (2)*)—Estates Subject of—Equitable Estates.—One who has expended money in purchasing real property at a commissioner's sale for the benefit of another is the equitable owner thereof, although the commissioner's deed was invalid, and may maintain partition of his equitable estate under Code 1904, § 2565, providing that a decree confirming any partition or allotment in a suit for partition shall vest, in the respective parties between or to whom the partition or allotment is made, the title and share under the partition or allotment in like manner as if said decree ordered such title to be conveyed to them and the conveyance was made accordingly.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 803.]

2. Appeal and Error (§ 1041 (2)*)—Review—Amended Pleadings.—In a suit for partition, where an amended bill and pleadings were filed, error cannot be predicated thereupon, where the issues were disposed of on the original bill, and no notice taken of the amended bill or pleadings.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 587.]

Appeal from Circuit Court, Madison County.

Suit for partition by Daniel Stewart and others against D. Y.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.